IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22862 of 2004

Between:

Miss Mujeebunnisa Begum D/o.Sri Mirza Yousuf Ali Baig
R/o.17-2-181/58/1, A1 Jabri Colony, Yakutpura, Hyderabad.

..... PETITIONER

AND

N.T.R. University of Health Sciences,

Represented by its:

1 Registrar N.T.R. University of Health Sciences
Vijayawada.
2 Principal, Govt.Nizamia Tibbi College
Charminar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ in the nature of Mandamus or any other appropriate writ or direction to the respondent 1 and quash the order contained in Ref.No.E4/8UMS/170/03-1 dt.26.12.2003 of the respondent-1 communicated to the petitioner vide Endt.No.3550-B/NTC/03 dt.5.1.2004 of the respondent-2 with a direction to allow the petitioner to continue the studies by the petitioner in II Professional Course of BUMS in order to save the future of the petitioner or pass any other order or orders.

Counsel for the Petitioner: MR.MOHD YOUSUFUDDIN

Counsel for the Respondents: Ms. Y. Padmavathi

The Court, at the stage of admission, made the following :

ORAL ORDER:

The petitioner, who is a student in BUMS Course, questions the order dated 26.12.2003 passed by the 1st respondent, whereby she was informed that she will not be allowed to continue her studies as per CCIM Regulations.

The learned counsel for the petitioner submits that she was admitted to BUMS Course by the 1st respondent-University in the 2nd respondent-College in the year 1999. She appeared for
the I Professional Examination in May/June, 2001, October/November, 2001 and March/April, 2002, but failed. Thereafter, the petitioner was accorded permission to appear for the said examinations on medical grounds on two occasions, in October/November, 2002 and March/April, 2003. However, the petitioner could not pass the examinations. Therefore, the petitioner made representations in succession to the
1st respondent to provide her one more opportunity to appear and pass the examination, but the same was refused. The learned counsel for the petitioner submits that the petitioner could not pass the examinations as she is suffering from serious ailment, and if she is not given one more opportunity to appear and pass the examination, her admission would be cancelled, and having regard to the provisions

of Para 4(c) of the CCIM Regulations, he submits that the 1st respondent has power to permit a student to appear any number of times, and therefore, taking a considerate view, a direction be given to the 1st respondent to provide the petitioner one more opportunity to appear and pass the examination.

The learned Standing Counsel for the 1st respondent-University submitted that as per Para 4(c) of the CCIM Regulations, candidates who fail to pass the examination in three opportunities, shall not be allowed to continue their studies, and in case of a candidate suffering from ailment or under unavoidable circumstances, the 1st respondent is empowered to permit one or more opportunities for passing the examination, and inasmuch as the petitioner in spite of granting three opportunities and two more opportunities on medical grounds failed to pass the examination, her request for grant of one more opportunity was rejected.

The petitioner, admittedly, was provided five opportunities, three opportunities in usual course and two opportunities on the ground of her illness. The petitioner, having been provided, in all five opportunities, failed to pass the examination, it may be considered whether as per Para 4 (c) of the CCIM Regulations, the 1st respondent could be directed to provide one more opportunity to the petitioner to appear for the examination.

Para 4(c) of the CCIM Regulations reads thus:

> Candidates who fail to pass the I Professional Examination in three opportunities shall not be allowed to continue their studies. However, in case of personal illness of a serious nature of a candidate and in unavoidable circumstances the University may permit one or more opportunities for passing the I Professional Course.

A reading of the above provision would become clear that a candidate who fails to pass the I Professional Examination in three opportunities will be not allowed to continue his/her studies, and in case of illness of serious nature and in unavoidable circumstances, the candidate is provided one or more opportunities, indicating that a candidate is given in all five opportunities to pass the examination. Admittedly, the petitioner, in spite of being provided three opportunities, did not pass the examination, and thereafter, she was provided two more opportunities on medical grounds, and as the petitioner, in spite of being provided five opportunities, failed to pass the examination, the 1st respondent had rightly refused to provide one more

opportunity to the petitioner, as any further extension, would be *ultra vires* their powers. Since the CCIM Regulations, governing the Professional Examination, bar granting more opportunities than what is provided, this Court except expressing its sympathy to the petitioner, cannot direct the 1st respondent to grant one more opportunity to the petitioner, as it would be directing them to act beyond the Regulations.

Therefore, no direction as prayed for by the petitioner can be granted. The writ petition, is therefore, dismissed. No order as to costs.

14.12.2004

CVM/NSR

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To,

1 The Registrar N.T.R. University of Health Sciences
Vijayawada.
2 The Principal, Govt.Nizamia Tibbi College
Charminar, Hyderabad.

3. 2 CD copies.